

# Notice of Allowability

Application No.

10/709,014

Examiner

Patricia C. Mallari

Applicant(s)

BANET, MATTHEW J.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the RCE filed 11/7/06.
2. ☒ The allowed claim(s) is/are 1,4,5,7-10,14,18-20 and 23-27.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/7/06 has been entered.

**REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance:

US Patent No. 6,331,162 to Mitchell teaches a device and method wherein the device comprises a first optical module 22 and second optical module 24, each module configured to generate optical radiation and have a first and second optical sensor, respectively, configured to detect radiation from the patient and generate a first and second set of information, respectively in response (see entire document especially col. 3, lines 50-67; col. 4, lines 9-25 of Mitchell). The device further comprises an electrical sensor 34 comprising an electrode pair ("leads") configured to generate a third set of information (see entire document, especially col. 3, lines 59-65; col. 5, lines 8-14 of Mitchell). A processing module 20 is configured to receive the first, second, and third sets of information and comprises a processor. The processor calculates a first time dependent property related to a time-dependent variation from components of the first and second set of information (see entire document, especially col. 4, line 61-col.5, line

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26 of Mitchell). However, Mitchell compares the first time dependent property and the third set of information to a mathematical model to calculate blood pressure, rather than comparing the first time dependent property and a second time dependent property to the model, as claimed, wherein the second time dependent property is calculated from the third set of information and at least one of the first and second sets of information. Mitchell further fails to disclose a hand-held component comprising each of the modules and the electrical sensor.

With respect to claims 1, 4, 5, 7-10, 14, 18-20, 23, and 24, US Patent No. 5,316,008 to Suga et al. teaches a device wherein pair of electrodes and a first optical module reside on a single hand-held component (see entire document, especially figs. 1-3, 8, and 10-12 of Suga). US Patent No. 5,309,916 to Hatschek further teaches a device wherein a pair of optical modules resides on a single hand-held component (see entire document, especially figs. 1 & 2 of Hatschek). While it would have been obvious to one of ordinary skill in the art at the time of invention to combine the hand-held components of Hatschek and Suga with the device and method of Mitchell as a mere matter of design choice, the combination still lacks the processing module calculating blood pressure value from the first and second time dependent properties, as claimed.

Therefore, the prior art fails to teach or fairly suggest a device for monitoring a patient's blood pressure, wherein the processing module calculates a blood pressure value from a first time dependent property, determined from the first and second sets of information, and a second time dependent property, determined from the third and at

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least one of the first and second sets of information, in combination with all of the other limitations of the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 5,964,701 to Asada et al. teaches a hand-held device comprising a plurality of optical modules, each including a photodiode 42 and LED 44, and a pair of electrodes 46 for obtaining an electrical impedance signal (see entire document, especially fig. 4; col. 4, line 48-col. 5, line 14 of Asada). Asada fails to describe a processing module as claimed by the present application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia C. Mallari whose telephone number is (571) 272-4729. The examiner can normally be reached on Monday-Friday 10:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*for*  
pcm

*Robert L. Nasser*

ROBERT L. NASSER  
PRIMARY EXAMINER